

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THOMAS PIERCY, on behalf of himself and  
all other similarly situated,

Plaintiff,

- against -

AIR CANADA,

Defendant.

Civil Action No. 1:20-cv-4988 (PMH)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, upon on the accompanying Memorandum of Law and the Declaration of Sarah G. Passeri, executed on November 13, 2020 and all exhibits annexed thereto, defendant Air Canada will hereby move this Court at the United States Courthouse, 500 Pearl Street, New York, New York 10007, Courtroom 12D, before the Honorable Phillip M. Halpern, United States District Court Judge, Southern District of New York, for an order pursuant to Fed. R. Civ. P. 12(b)(6), granting Air Canada's motion to dismiss the claims on the grounds that such claims are: (i) preempted by the Airline Deregulation Act of 1978, 49 U.S.C. § 41713(b)(1), which unambiguously preempts state common law and statutory consumer protection claims that relate to an air carrier's "prices" and "services;" (ii) preempted by federal rules and regulations which do not recognize a private right of action for Plaintiff to bring his claims, and (iii) insufficient to meet the basic pleading standards and state a claim against Air Canada.

PLEASE TAKE FURTHER NOTICE that pursuant to the Order of the Honorable Phillip M. Halpern dated November 9, 2020, answering papers, if any, shall be served on or before December 4, 2020. Reply papers, if any, shall be served on or before December 11, 2020.

Dated: November 13, 2020

Respectfully submitted,

HOLLAND & KNIGHT LLP

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*Air Canada*